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16 Attorneys for Plaintiff
17 UNITED STATES OF AMERICA

18 UNITED STATES DISTRICT COURT

19 FOR THE CENTRAL DISTRICT OF CALIFORNIA

20 UNITED STATES OF AMERICA,

21 Plaintiff,

No. CR 18-50(B)-JAK

22 v.

23 YI-CHI SHIH,
aka "Yichi Shih,"
aka "Yuqi Shi," et al.,
GOVERNMENT'S BRIEF REGARDING
EXHIBITS EXPECTED TO BE INTRODUCED
AT TRIAL ON May 21, 2019

24 Defendants.

25
26 Hearing Date: May 20, 2019
27 Hearing Time: 1:30 p.m.
28 Location: Courtroom of the
Hon. John A.
Kronstadt

Plaintiff United States of America, by and through its counsel
of record, the United States Attorney for the Central District of

1 California and Assistant United States Attorneys Judith A. Heinz,
2 James C. Hughes, Melanie Sartoris, William M. Rollins, and Khaldoun
3 Shobaki, hereby submits this brief regarding the exhibits the
4 government expects to seek to introduce at trial on May 21, 2019.

5 This brief is based upon the attached memorandum of points and
6 authorities, the files and records in this case, and such further
7 evidence and argument as the Court may permit.

8 Dated: May 20, 2019

Respectfully submitted,

9 NICOLA T. HANNA
United States Attorney

10 PATRICK R. FITZGERALD
11 Assistant United States Attorney
12 Chief, National Security Division

13 /s/
14 JUDITH A. HEINZ
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Attorneys for Plaintiff
UNITED STATES OF AMERICA

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 During trial on May 21, 2019, the government expects to
3 introduce certain exhibits to which defendant objects. These
4 exhibits include:

5 Certified Visa records, TECS records, and e-mails that show that
6 in 2009 defendant Yi-Chi Shih ("defendant"), at the direction of
7 his China-based coconspirators, provided MMIC power amplifiers
8 manufactured by Triquint to Air China pilots at a Los Angeles
9 hotel, and that the Air China pilots then flew from LAX to
10 Beijing.

11 Among defendant's objections to these exhibits, there are two
12 categories of objections the government believes should be addressed
13 today:

- 14 1. Objections based on alleged "late discovery"; and
15 2. Objections based on alleged failure to give Rule 404(b)
16 notice.

17 Each of these objections is addressed for each exhibit in the
18 attached charts. The government also addresses briefly defendant's
19 objection to the Honeywell export compliance training exhibits.

20 **Objections based on alleged "late discovery"**

21 In short, defendant argues that any discovery produced by the
22 government after April 23, 2019 violates the Court's standing order
23 that the government produce all discovery of materials to be
24 presented as exhibits at trial no later than two weeks before trial.

25 The government's position is that trial in this case began on
26 May 15, 2019, and the contents of all but one exhibit were produced
27 no later than May 1, 2019 (two weeks before trial). Therefore, the
28 government complied with the Court's order. Sustaining defendant's

1 objections on these grounds would deviate from the Court's standing
2 order and prejudice the government.

3 The one exhibit that was produced in discovery after May 1, 2019
4 – Exhibit 1203 – was produced in discovery as soon as the government
5 had the TECS records in that exhibit. Those TECS records reflect
6 travel by Yu-Mo Chien, also known as Phil Chien. The government
7 could not identify TECS records for "Phil Chien" (the name used by
8 Yu-Mo Chien in emails to defendant during the conspiracy). The
9 government did not locate TECS records for the name "Yu-Mo Chien"
10 (which appears to be Phil Chien's true legal name) until shortly
11 before it produced the TECS records that are Exhibit 1203.

12 **Objections based on alleged failure to give Rule 404(b) notice**

13 The second group of objections made by defendant are based on
14 defendant's position that the evidence is relevant only to uncharged
15 conduct and the government has failed to give adequate Rule 404(b)
16 notice. The exhibits at issue relate to defendant's conduct early in
17 the conspiracy (2005-2009) at which time defendant provided Triquint
18 MMIC power amplifiers to his China-based conspirators, including
19 Yaping Chen, by either shipping these MMICs to a company in
20 Singapore, or by giving the MMICs to Air China pilots at a Los
21 Angeles hotel. This evidence is inextricably intertwined with all
22 other evidence of the conspiracy charged in Court One of the
23 indictment. The indictment charged that this conspiracy began on "an
24 unknown date but no later than January 2006." In fact, the evidence
25 shows that the conspiracy began as early as May 2005, and that two
26 conspirators remained constant throughout the conspiracy – defendant
27 and Yaping Chen. In addition, one of the conspirators' goals
28 remained constant throughout the conspiracy – the unlawful export of

1 MMICs from the United States to China. Accordingly, the exhibits to
2 which defendant objects are highly relevant to the charged conduct.

3 **Objections to Defendant's Honeywell export compliance training**
4 **records**

5 Defendant objects to the exhibits of defendant's Honeywell
6 export compliance training records based, *inter alia*, on the
7 inclusion of words such as "ITAR" and "missiles." However, these
8 words are part of the evidence in this case. Defendant and co-
9 defendant Kiet Mai use the word "ITAR" in the e-mails they exchange
10 to execute their scheme to obtain the MMICs from U.S. Company B. And
11 defendant himself sends co-conspirator Ishiang Shih an e-mail
12 attached to which are the minutes of a meeting of the Ganide Board of
13 Directors (on which defendant sits) showing that the directors plan
14 to make MMICs in China to use for missile guidance. See Exhibit
15 253A. Therefore, these exhibits are highly relevant.

16 **Defendant's Other Objections**

17 The government will address defendant's other objections during
18 the status conference later today.

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ATTACHMENT A

United States v. Yi-Chi Shih,
No. CR 18-00050 JAK

Government Responses to Defense Alleged "Late Discovery" Objections to
Government Exhibits

Exh. No.	Description	Defendant's Objection	Government's Response
119	8/30/2009 Yaping Chen to YC Shih re shipping to South Korea	None	
119A	English-language translation of above	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); document was produced on 4/24/2019 YC_SHIH_022997
153	12/31/2014 e-mail from YiChiShih to Gao & Xin about a revised proposal to establish Gastone Technology to be a strong foundry like WIN or Triquint; proposal is attached	None	
153A	English-language translation of above	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); document was produced on 4/30/2019 YC_SHIH_23415-423
787	Memorandum on the Historical Facts of GaStone Technology	None	

United States v. Yi-Chi Shih,
No. CR 18-00050 JAK

Government Responses to Defense Alleged "Late Discovery" Objections to
Government Exhibits

Exh. No.	Description	Defendant's Objection	Government's Response
787A	English-language translation of above	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); finalized translation was produced on 4/28/2019 YC_SHIH_00023143-147; draft translations were produced on 3/14/2019 YC_SHIH_00016389-394; and on 4/10/2019 YC_SHIH_00022545-550
1202	Certified TECS records for Air China Pilots	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order) ¹	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); documents were produced on 4/28/2019 YC_SHIH_00023126-142

¹In addition, defendant objects based on relevance and re-asserts his prior objection (see Dkt. No. 331).

United States v. Yi-Chi Shih,
No. CR 18-00050 JAK

Government Responses to Defense Alleged "Late Discovery" Objections to
Government Exhibits

Exh. No.	Description	Defendant's Objection	Government's Response
1203	TECS records for Yu-Mo Chien	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order). ²	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); uncertified documents were produced on 5/7/2019 YC_SHIH_00024676-677. The government could not locate these documents earlier because Yu-Mo Chien used the name "Phil Chien" in all of his communications with defendant, and the government did not know "Phil Chien"'s legal name until very recently. Defendant has not been prejudiced; the e-mails reflecting the cross-border travel were produced in discovery approximately a year ago.

² In addition, defendant re-asserts objections made previously (see Dkt. No. 334).

United States v. Yi-Chi Shih,
No. CR 18-00050 JAK

Government Responses to Defense Alleged "Late Discovery" Objections to
Government Exhibits

Exh. No.	Description	Defendant's Objection	Government's Response
1653	Certified Visa records for Kai Cheng	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order) ³	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); uncertified documents were produced on 3/14/2019 YC_SHIH_00014364-78; certified documents were produced on 4/26/2019 YC_SHIH_00023081-091
1654	Certified Visa records for Yong Tian	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); uncertified documents were produced on 3/14/2019 YC_SHIH_00014383-400; certified documents were produced on 4/26/2019 YC_SHIH_00023091-109

³In addition, defendant objects to exhibits 1653, 1654, and 1655 based on relevance and no Rule 404(b) notice regarding uncharged conduct.

United States v. Yi-Chi Shih,
No. CR 18-00050 JAK

Government Responses to Defense Alleged "Late Discovery" Objections to
Government Exhibits

Exh. No.	Description	Defendant's Objection	Government's Response
1655	Certified Visa records for Yuan Dong Chen	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); uncertified documents were produced on 3/14/2019 YC_SHIH_00014361-363; certified documents were produced on 4/26/2019 YC_SHIH_00023110-117
1680	Triquint part TGA4505 product datasheet, May 2009	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order) ⁴	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); documents were produced on 4/26/2019 YC_SHIH_00023013-022
1681	Triquint part TGA4508 product datasheet, May 2009	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); documents were produced on 4/26/2019 YC_SHIH_00023023-033

⁴In addition, defendant objects to exhibits 1680, 1681, 1682, 1683, 1684, 1685, 1686, 1687, 1689, 1690, 1691, and 1692 based on relevance, hearsay, for some exhibits foundation and duplicity, and no Rule 404(b) notice regarding uncharged conduct.

United States v. Yi-Chi Shih,
No. CR 18-00050 JAK

Government Responses to Defense Alleged "Late Discovery" Objections to
Government Exhibits

Exh. No.	Description	Defendant's Objection	Government's Response
1682	Triquint part TGA4512-SM product datasheet, April 26, 2012	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); documents were produced on 4/26/2019 YC_SHIH_00023034-046
1683	Triquint part TGA4516 product datasheet, July 2011	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); documents were produced on 4/26/2019 YC_SHIH_00023047-055
1684	Triquint part TGA4517 product datasheet, May 2009	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); documents were produced on 4/26/2019 YC_SHIH_00023056-066
1685	Triquint part TGA4522 product datasheet, May 2009	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); documents were produced on 4/26/2019 YC_SHIH_00023067-078

United States v. Yi-Chi Shih,
No. CR 18-00050 JAK

Government Responses to Defense Alleged "Late Discovery" Objections to
Government Exhibits

Exh. No.	Description	Defendant's Objection	Government's Response
1686	Triquint part TGA1073B- SCC product datasheet, January 17, 2005	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); documents were produced on 5/1/2019 YC_SHIH_00023432-438
1687	Triquint part TGA1073C- SCC8 product datasheet, July 1, 2002	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); documents were produced on 5/1/2019 YC_SHIH_00023439-444
1688	Triquint part TGA4516 advance product datasheet, February 10, 2006	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); documents were produced on 5/1/2019 YC_SHIH_00023445-452
1689	Triquint part TGA4517-EPU advance product datasheet, June 4, 2004	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); documents were produced on 5/1/2019 YC_SHIH_00023453-462

United States v. Yi-Chi Shih,
No. CR 18-00050 JAK

Government Responses to Defense Alleged "Late Discovery" Objections to
Government Exhibits

Exh. No.	Description	Defendant's Objection	Government's Response
1690	Triquint part TGA4521 product datasheet, June 2008	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); documents were produced on 5/1/2019 YC_SHIH_00023463-471
1691	Triquint part TGA4521- EPU advance product datasheet, October 5, 2004	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); documents were produced on 5/1/2019 YC_SHIH_00023472-481
1692	Triquint part TGA4522- EPU advance product datasheet, January 17, 2005	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order)	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); documents were produced on 5/1/2019 YC_SHIH_00023482-491
2008	incoming wire transfer instructions-Pullman Lane account - Z5 - 2014-01-02	None	

United States v. Yi-Chi Shih,
No. CR 18-00050 JAK

Government Responses to Defense Alleged "Late Discovery" Objections to
Government Exhibits

Exh. No.	Description	Defendant's Objection	Government's Response
2008A	English-language translation of above	Translation produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order) [No additional objection based on accuracy of translation]	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); document was produced on 5/1/2019 YC_SHIH_00023599
2812	5/30/2014 email from song.bo@rml138.com to Yi-Chi Shih attaching reports	See footnote 5.	
2812A	English-language translation of above	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order) ⁵ [No additional objection based on accuracy of translation]	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); document was produced on 4/30/2019 YC_SHIH_00023429
2813	6/5/2015 email from huo.xiaoshi@rml138.com to Shih attaching a report	See footnote 5.	

⁵In addition, defendant objects to exhibits 2812, 2812A, 2813, and 2813A based on these being incomplete exhibits, specifically, the report referenced in exhibit is not attached). The government is correcting the exhibit to address that objection.

United States v. Yi-Chi Shih,
No. CR 18-00050 JAK

Government Responses to Defense Alleged "Late Discovery" Objections to
Government Exhibits

Exh. No.	Description	Defendant's Objection	Government's Response
2813A	English-language translation of above	Produced after the 4/23/2019 government discovery cut-off (per Section B of the Court's standing order) [No additional objection based on accuracy of translation]	Discovery production cut-off per Court's Standing Order is two weeks before trial (5/1/2019); document was produced on 4/30/2019 YC_SHIH_00023428

ATTACHMENT B

United States v. Yi-Chi Shih,
No. CR 18-00050 JAK

Government Responses to Defense 404(b) Notice Objections to Government Exhibits

Exh. No.	Description	Defendant's Objection	Government's Response
234	10/22/2009 email YiChiShih & Fei Ye re delivering parts to person in hotel	Uncharged conduct (no Rule 404(b) notice); relevance	Count One conspiracy; inextricably intertwined; Rule 404(b) notice given in every discovery letter
235	10/27/2009 email YiChiShih & Fei Ye re delivering parts to person in hotel	Uncharged conduct (no rule 404(b) notice); relevance	Count One conspiracy; inextricably intertwined; Rule 404(b) notice given in every discovery letter
236	10/28/2009 email YiChiShih & Fei Ye re delivering parts to person in hotel	Uncharged conduct (no rule 404(b) notice); relevance	Count One conspiracy; inextricably intertwined; Rule 404(b) notice given in every discovery letter
236A	English-language translation of above	Uncharged conduct (no rule 404(b) notice); relevance	Count One conspiracy; inextricably intertwined; Rule 404(b) notice given in every discovery letter
239	12/3/2009 email YiChiShih & Fei Ye re directions for giving MMIC to person in hotel	Uncharged conduct (no rule 404(b) notice); relevance	Count One conspiracy; inextricably intertwined; Rule 404(b) notice given in every discovery letter
240	12/3/2009 email YiChiShih & Fei Ye re directions for giving MMIC to person in hotel	Uncharged conduct (no rule 404(b) notice); relevance	Count One conspiracy; inextricably intertwined; Rule 404(b) notice given in every discovery letter
1653	Certified Visa records for Kai Cheng	Uncharged conduct (no rule 404(b) notice); relevance	Count One conspiracy; inextricably intertwined; Rule 404(b) notice given in every discovery letter

United States v. Yi-Chi Shih,
No. CR 18-00050 JAK

Government Responses to Defense 404(b) Notice Objections to Government Exhibits

Exh. No.	Description	Defendant's Objection	Government's Response
1654	Certified Visa records for Yong Tian	Uncharged conduct (no rule 404(b) notice); relevance	Count One conspiracy; inextricably intertwined; Rule 404(b) notice given in every discovery letter
1655	Certified Visa records for Yuan Dong Chen	Uncharged conduct (no rule 404(b) notice); relevance	Count One conspiracy; inextricably intertwined; Rule 404(b) notice given in every discovery letter